IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

Crl.MC.No. 745 of 2007()

CC.76/2005 of JUDL.MAGISTRATE OF FIRST CLASS COURT-I, KANNUR
CRIME NO.620 OF 2004 OF KANNUR TOWN POLICE STATION

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PETITIONER: 4TH ACCUSED

T.C.SUCHITHRA, W/O LATE DR.C.N.VIJAYAN,
SUSHEEL NIVAS, KAYATH ROAD, THALASSERY-1.

BY ADV. SRI.C.P.PEETHAMBARAN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTING S.H.O.,
KANNUR TOWN POLICE STATION, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. RATNA JYOTHI, D/O K.P.RATNAKARAN,
GOVARDHAN, HOLOWAY ROAD, THALASSERY.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.745 of 2007

Dated this the 20th day of March, 2007

ORDER

The petitioner is the 4th accused in a prosecution under Section 498 A read with 34 I.P.C. The 2nd respondent herein is the defacto complainant. The police had registered a complaint and after completing the investigation, they had filed charge sheet against the accused. Cognizance has been taken by the learned Magistrate. The petitioner has already entered appearance before the learned Magistrate. The petitioner has come to this Court with a prayer that powers under Section 482 Cr.P.C may be invoked to quash the proceedings against the petitioner.

2. What are the grounds ? The learned counsel for the petitioner submits that the allegations raised are grossly false and perverse that no person would have placed reliance on such materials to initiate criminal prosecution against the petitioner. In these circumstances, premature termination of the vexatious proceedings may be brought about by invoking the powers under Section 482 Cr.P.C, it is prayed.

3. Cognizance has been taken on the basis of a final report as early as on 08.02.2005. All the relevant materials are available before the learned Magistrate. The petitioner has already entered

appearance before the learned Magistrate. The learned Magistrate, after hearing the accused, has already framed charge under Section 240 Cr.P.C, it is submitted. It is, in these circumstances, that the petitioner has come before this Court with the prayer to quash the proceedings. The order framing charge remains unchallenged.

4. I do not, in the facts and circumstances of this case, find any necessity to invoke the powers under Section 482 Cr.P.C. Such inherent extraordinary powers are to be invoked only in exceptional cases in aid of justice. At any rate, it is not to be invoked, as a matter, of course. I do not, in the facts and circumstances of the case, find any reason which would justify the invocation of such powers. The mere fact that the petitioner may be entitled to claim acquittal is by itself no sufficient reason to justify resort to the powers under Section 482 Cr.P.C. I am of opinion that this is an eminently fit case where the petitioner must take part in the proceedings and claim acquittal at the appropriate stage if she is entitled to.

5. The learned counsel for the petitioner submits that unnecessary insistence on personal appearance of the petitioner would cause great prejudice and undeserved hardship to the petitioner. I have no reason to assume that the learned Magistrate would insist on such personal appearance unnecessarily. It is for the petitioner to apply for exemption before the learned Magistrate and

the learned Magistrate must consider such application in accordance with law and on merits. Unnecessary personal appearance should not be insisted by any criminal Court.

6. This Crl.M.C is, in these circumstances, dismissed with the above observations.

(R.BASANT, JUDGE)

rtr/-